

**Virginia Land Conservation Foundation
Board of Trustees Meeting
Thursday, August 7, 2008 – 10:00 a.m.
East Reading Room, Patrick Henry Building, Richmond**

Virginia Land Conservation Foundation Board of Trustees Members Present

Honorable L. Preston Bryant, Jr., Secretary of Natural Resources, Chairman
Honorable Robert S. Bloxom, Secretary of Agriculture and Forestry
Alexandra Liddy Bourne
William C. Dickinson
Thomas B. Graham
Mary Helen Morgan
Albert C. Weed, II
Margaret Davis
Wendell P. Ennis
Bonnie Moorman
L. Clifford Schroeder, Sr.
Executive Secretary: Joseph H. Maroon, Director, Department of Conservation and Recreation

Virginia Land Conservation Foundation Board of Trustees Members Not Present

Honorable Patricia S. Ticer
Honorable R. Creigh Deeds
Lou Giusto
Nancy T. Bowles
Leah Fried
Mary Bruce Glaize

Agency Staff Present

James Adams, Department of Game and Inland Fisheries
Russell W. Baxter, Department of Conservation and Recreation
Tim Bishton, Department of Conservation and Recreation
Tracy Campbell, Office of the Secretary of Agriculture and Forestry
David C. Dowling, Department of Conservation and Recreation
Diane Dunaway, Department of Conservation and Recreation
Rob Farrell, Department of Forestry
Michael Fletcher, Department of Conservation and Recreation
Hank Hartz, Virginia Outdoors Foundation
Bob Lee, Virginia Outdoors Foundation
Sarah Richardson, Department of Conservation and Recreation
Kevin Schmidt, Department of Agriculture and Consumer Services
Larry Smith, Department of Conservation and Recreation
Jeremy Stone, Department of Conservation and Recreation
Elizabeth Tune, Department of Historic Resources

Others Present

Tyler Carroll, Virginia Farm Bureau
Henry Day, Warrenton
Katie Frazier, Virginia Agribusiness Council

Phil Hocker, Conserv Co.
David Phemister, The Nature Conservancy
Heather Richards, Piedmont Environmental Council
Chase Milner, Shenandoah Valley Battlefields Foundation
Lindsay Potts, Virginia Farm Bureau

Call to Order and Opening Remarks

Secretary Bryant called the meeting to order.

Executive Secretary's Report

Mr. Maroon gave the Executive Secretary's report.

Mr. Maroon said that during the General Assembly, the VLCF received \$4 million with \$2 million allocated to each year for matching grants. He said the Board would be asked to approve the grant round schedule later in the meeting.

Mr. Maroon said that in other land conservation funding Governor Kaine included \$950,000 for the Virginia Outdoors Foundation. While that amount was reduced, VOF did receive a substantial increase in funding.

Mr. Maroon said that due to the budget issues, agencies would no longer be able to retain and use interested earned on funds including those generated by VLCF's Fund. Those funds will remain in the general fund.

Mr. Maroon said that Senate Finance's Natural Resources and Economic Development Subcommittee held a 2-day retreat to discuss land conservation and water quality. He said that there was subcommittee support for the Board's Land Preservation Tax Credit Review process.

Mr. Maroon said that more than 200 people turned out for the Governor's Forum in southern Virginia in December. Over 100 people participated in the second Virginia United Land Trust Conference in June.

Approval of Minutes of November 29, 2007

MOTION: Mr. Weed moved that the minutes of the November 29, 2007 Board and Subcommittee Meetings be approved as submitted by staff.

SECOND: Dickinson

DISCUSSION: None

VOTE: Motion carried unanimously

Chairman's Comments

Secretary Bryant welcomed Mary Helen Morgan, newly appointed member to the Board. Mrs. Morgan is the wife of Delegate Harvey Morgan and a long time land conservation activist with the Middle Peninsula Land Trust.

Secretary Bryant said that with the help of DCR and land conservation trusts across Virginia the Commonwealth was on schedule to meet Governor Kaine's land conservation goal of 400,000 acres.

Secretary Bryant said that recent easements included 5,000 at Smith Mountain Lake, another several thousand acres at Carvin's Cove in Roanoke have helped significantly. He noted that the Department of Historic Resources has also had some signature initiatives as well with 1,500 acres in Fluvanna and Shirley Plantation.

Secretary Bryant said that the \$30 million land conservation bond will help a great deal towards the Governor's goal. He noted that this was the single greatest amount of money for land conservation in the history of Virginia.

Secretary Bryant noted that in addition to the \$30 million, another \$5 million will go to the Department of Historic Resources for battlefield preservation.

Secretary Bryant said that the upcoming year would be the Governor's focus on Environment and Energy. He said that no Governor in modern history had focused a sole year on natural resources or had environment as a major policy issue. Secretary Bryant and Secretary Bloxom are working together to put forward issues for 2009.

Secretary Bryant said that land conservation would remain the signature initiative for the Governor's Year of the Environment.

Secretary Bryant asked Mr. Maroon to speak to High Bridge and Powhatan State parks.

Mr. Maroon said that High Bridge Trail State Park will be a thirty-five mile linear state park. This is a rail-to-trail conversion thanks to the donation of an abandoned rail line by Norfolk Southern. In the previous year, DCR received \$1 million to begin to develop the trail. He said that towards the end of August, DCR would open the first four miles of the trail to the public. He said the hope was to open the park completely by spring or summer. The park includes a Civil War relic bridge. This will become the 35th state park.

Mr. Maroon said that Powhatan State Park is 1,500 acres carved out of a juvenile detention facility in the James River in Powhatan County. DCR has \$7 million to start the development of the park.

Secretary Bryant said that Fort Monroe would also be coming to the state as part of the BRAC process. The Army is leaving the fort in 2011 and 570 acres will revert to the Commonwealth, including 13 miles of beaches and trails. He noted that the location holds a very special place in

African American history. He said that Governor Kaine is committed to respecting the history of the area and to keeping it open to the public.

Secretary said that water quality was a big part of the agenda. He said that great progress has been made on point sources and that the Commonwealth will meet the 2010 point source goals. He said the attention is now turning to nonpoint sources and working within the agriculture community. He said that a great coalition was being built between the environmental advocacy groups and the agricultural community.

Secretary Bryant said that the work of the Governor's Climate Change Commission continues. The report is due no later than December 15, 2008. The focus of the Commission is four pronged: Assess global warming impacts on natural resources, economy, and health and to develop strategies to meet the Governor's greenhouse goal of a 30% reduction by 2025.

Financial Report

Mr. Bishton gave the financial report. Total liabilities and equity as of June 30, 2008 was \$7,698,775. A copy of the detailed financial report is available from DCR.

Mr. Dickinson asked if the license plate fees would continue or if those would lapse.

Mr. Dowling said that he was not sure if the fee had disappeared but noted that budget language still says that anything above \$6 million would go to DCR.

Mr. Weed asked if any of the VLCF funds were vulnerable with regard to the current budget situation.

Secretary Bryant said that anything is subject to budget reduction considerations. He said that the line item most vulnerable was the accrued interest. Historically that has gone to the agency. He said that the Office of the Secretary of Natural Resources and DCR were committed to spending what has been allocated.

Mr. Maroon said that \$4 million had been allocated for this biennium. He said that it could potentially be taken back by the Governor or the General Assembly. He said that staff was requesting that the Board authorize the entire \$4 million for the grant round.

Project Status Update Report

Ms. Richardson gave a project status update.

Ms. Richardson said that Merrimac Farm represents over 300 acres in Prince William County. Because it is next to Quantico Marine Base the project received a substantial portion of funding from the military. The Prince William Conservation Alliance applied to the VLCF for funding. Additional funding came from the Department of Game and Inland Fisheries. The land will become a wildlife management area in Northern Virginia.

The formal dedication of Brumley Mountain was held in May. This represents 4,836 acres between Washington and Lee Counties in Southwest Virginia. This will be an actively managed forest and will include a natural area preserve. A 720 acre portion will be called the Great Channels Natural Area. This area will be jointly managed by DCR and the Department of Forestry.

The most recent project was a Virginia Outdoors Foundation project called Port Tobacco in Essex County. This 1800 acres was a working family farm and includes five miles of frontage on the tidal Rappahannock River. This land will be held by the Virginia Outdoors Foundation and the Nature Conservancy.

New VLCF logo, sign, and brochure

Ms. Richardson reviewed a mockup of the VLCF sign and brochure. Copies are available from DCR.

Ms. Richardson said that the brochure would help with public education. Both the sign and brochure include the new logo.

Mr. Dickenson asked if the brochure would be available in quantity.

Mr. Maroon said that the brochures could be made available on request.

Discussion of Funding Actions Needed Related to Previously Approved Projects

Ms. Richardson said that three previously approved projects would not be going forward. Those were:

- Middle Peninsula Land Trust: Garden Creek/Winter Harbor Acquisition, FY2001, for \$155,000
- Chesapeake Bay Foundation: Charlton Hill Easement, FY2008, for \$108,590
- Shenandoah Valley Battlefield Foundation: Cedar Creek Bluff Easement, FY2005, for \$244,793.50

Ms. Richardson noted that staff had recently learned the following project did not appear to be going forward but that an extension might be considered by the Board:

- Shenandoah Valley Battlefield Foundation: Huntsberry Farm Acquisition, FY2006, for \$1 million

Ms. Richardson said that the grant was awarded in 2006. The grant manual imposes a two-year deadline. She noted that the Battlefield Foundation had difficulty in working with the

landowners. She said that Mr. Chase Milner, project manager for the Battlefield Foundation was present to ask for an extension of the project.

Mr. Milner said that the project was very significant with regard to preserving Civil War history in the Shenandoah Valley. He said that the National Parks Service has identified the land as one of the most significant battlefields of the Civil War. Sgt. William McKinley gave orders to Rutherford B. Hayes during this battle.

Mr. Milner said that the Battlefield Foundation hoped to be able to retain the grant in order to allow time to work with the family. He said that there had been issues with the appraisal process early in the grant period. The family has now agreed to move forward with discussions.

Mr. Milner said that Foundation is hoping to receive the adequate match through a large capital campaign. The land is currently farmland.

Mr. Weed asked where the matching funds for the initial grant were to come from.

Mr. Milner said that initially the hope was that the funds would come from federal appropriations.

Mr. Maroon said that the initial project scored very highly. He said that the issue now was that the time had run out on the project. He said that DCR is concerned about tying up that money. He noted that it would require an action on the part of the board to extend the grant.

Mr. Ennis asked if the Foundation could reapply for the next grant round.

Mr. Weed noted that a lot of work had already been done on this project.

Ms. Bourne noted that the market had changed significantly. She said there might be an advantage to obtaining a new appraisal and getting a new dollar amount and in that regard it might be best to let the project go and ask the Foundation to reapply for the next round.

Secretary Bryant noted that the VLCF had a lot of priorities. He suggested that the Foundation inform staff by November 1st of the status of the project and that the Board retain the option to redirect the funds at the January 7, 2009 meeting.

Mr. Maroon said that it might be possible to establish that deadline with the understanding that the Foundation would need to work out an agreement with the landowner and would be required to identify the matching fund sources. However, if substantial progress is not made, the VLCF could then elect to add those funds to the upcoming grant round.

Ms. Bourne suggested keeping the project on the list for consideration and give the Foundation one year to demonstrate that there are real pledges for funding and that there is a real time appraisal.

Mr. Weed said that the Foundation needed to obtain a firm option to purchase the land.

Mr. Dickenson asked if the Foundation believed they could complete the appraisal and have a definite option to buy by November.

Mr. Milner said that he thought that could be completed. He said that the Foundation currently has \$130,000 set aside for preservation funds.

MOTION: Mr. Dickenson moved that the Virginia Land Conservation Foundation Board of Trustees extend the grant to the Shenandoah Valley Battlefields Foundation for the Huntsberry Farm Project until January 7, 2009, provided that the Foundation submits a progress report to the Chairman by November 1, 2009 that will demonstrate substantial progress has been made on utilizing the grant in the form of a landowner purchase option and a detailed funding plan for the required matching funds. The Board also urges the Foundation before it agrees to a purchase price to obtain a current appraisal of the market value of the property. Should the November 1st report not show satisfactory process as determined by the Chairman, the Board authorizes staff to move forward toward applying the \$1,000,000 to other priority applications in this category during the new grant round. The Board will take final action on this matter at their January 7, 2009 meeting.

SECOND: Mr. Graham

DISCUSSION: None

VOTE: Motion carried with Ms. Bourne and Mr. Ennis voting no.

MOTION: Mr. Weed moved that the three remaining projects identified by Ms. Richardson be closed and that the funds be reverted to their respective categories for reallocation in the upcoming grant round.

SECOND: Mr. Graham

DISCUSSION: None

VOTE: Motion carried unanimously

Board Approval of Grant Round Funding

Mr. Dowling presented the funding plan for the August 2008 grant round. A copy of the proposed plan is available from DCR.

Total amounts reserved for the grant program were \$4,310,943. He noted that the intent was to allocate existing funds as well as the \$4 million appropriated for the biennium.

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Ms. Bourne said that she had a concern about obligating funds beyond those available on January 2009. She said that she did not feel comfortable going forward with the second half of the funding allocated for the second year of the biennium.

Mr. Dowling said that while DCR recognizes there is a budget shortfall that conservation is a priority for the Governor. He said that staff felt comfortable regarding the first \$2 million. He said the intent was just to put forward a funding plan. He noted that the budget numbers would be known before the Board made any decisions with regard to project approval.

Mr. Dickinson said that he had concerns about the significant cost of the application process. He asked if the older projects could be reconsidered.

Mr. Maroon said that projects that were not approved could be revised and resubmitted. He said that any grant round addresses the highest priorities for the applications received.

Mr. Weed said that anyone seeking money from a funding agency would have transactional costs. He said that as a public body, the VLCF was obligated to take on faith what the Governor and General Assembly had allocated.

Ms. Bourne said that as a public body it was important to recognize the current economic status.

Secretary Bryant said that the VCLF is operating under the law. He said that the VCLF had been allocated \$4 million. He said that this was simply adopting a funding plan that would be the first line of defense with the General Assembly.

MOTION: Mr. Ennis moved that the funding plan be approved as submitted by DCR staff.

SECOND: Mr. Graham

DISCUSSION: None

VOTE: Motion carried with Ms. Bourne voting no.

Proposed Grant Round Schedule

Ms. Richardson presented the following grant round schedule:

July 26	Workshop for grant applicants (38 people attended) – announcement post cards were mailed to more than 550 localities, land trusts, and conservation organizations
August 7	VLCF Board meeting – requesting authorization to initiate grant round

August 11	Postcards will be mailed to confirm the schedule
August 15	Grant round begins
October 10	Deadline for application submittal
Late Oct. into Dec.	Two (possibly three, if needed) interagency taskforce meetings
Mid-December	SNR review of top-scoring projects
January 7	VLCF Board meeting to approve grant awards

Secretary Bryant suggested that preference be given to those projects that could close by December 31, 2009.

MOTION: Mr. Graham moved that the Virginia Land Conservation Foundation Board of Trustees approve the proposed grant round timeline as presented by staff and that scoring preference be given to those projects that could be completed by December 31, 2009.

SECOND: Mr. Weed

DISCUSSION: None

VOTE: Motion carried unanimously

Consideration of Biennial Administrative Expenses Budget Request

Secretary Bryant and Mr. Maroon presented the administrative expense budget request. The budget request was as follows:

	FY2010	FY2011
Conservation Lands Website Development		
Supports conservation lands database management and enhancement and the distribution of land conservation database information, including Internet delivery and monthly reporting to Governor Kaine		
FTE (1) [63K + exp \$15K]	\$78,000	\$78,000
Wage Employee [\$22,000 + exp (5500)]	\$27,000	\$27,000
Timmons support	\$9,000	\$9,000
SUBTOTAL	\$114,000	\$114,000
Virginia Conservation Lands Needs Assessment		

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The identification of priority conservation lands including ecologically important lands, open space and trails, historic, agricultural and forest will be updated statewide. Enhanced conservation informant products will be developed for the land trust community and local governments. These products will continue to function as a strategic planning and performance measurement tool for the Land Conservation Foundation and resource for the land conservation community. The funds will serve as a match to federal and private funds for this project.

FTE (2) (1/2 [77,375 + EXP 18, 570])	\$48,000	\$25,722
FTE (3) (1/2 [1/2 (67,000 + EXP 16,080)])	\$41,500	
SUBTOTAL	\$89,500	\$25,722
Printing, Postage, Travel and Grant Implementation	\$2,000	\$2,000
VLCF Funded Project Signs		
Total	\$205,500	\$141,722
Two Year Target \$347,222 (current unallocated interest)		\$347,222

NOTES:

- 1) Total Actual Cost for VCLNA and Conservation Lands/year = \$324,083
- 2) Up to \$250,000 per year in interest is allowed to be utilized for administrative expenses
- 3) The VLCF Board previously authorized \$222,000 in FY2009.

Ms. Bourne requested that the amounts for each year be addressed separately.

MOTION: Mr. Weed moved that the administrative budget request for Fiscal Year 2010 be approved in the amount of \$205,500.

SECOND: Secretary Bloxom

DISCUSSION: None

VOTE: Motion carried unanimously

MOTION: Mr. Graham moved that the administrative budget request for Fiscal Year 2011 be approved in the amount of \$141,722.

SECOND: Secretary Bloxom

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DISCUSSION: None

VOTE: Motion carried with Ms. Bourne voting no.

At this time, the Board recessed for lunch. Following lunch Secretary Bryant called on Mr. Dowling to give an update on the Land Preservation Tax Credit Review Criteria.

Land Preservation Tax Credit Review Criteria update

Mr. Dowling gave the following review of the Land Preservation Tax Credit Review Criteria.

Mr. Dowling said that staff intended to update the Board on the land preservation tax credit program and share a two-step process for making refinements to the land preservation tax credit criteria that the Board originally adopted on November 21, 2006.

Since January 1, 2007, DCR has been reviewing tax credit applications that claim \$1 million or more in credits from a donation equal to or greater than \$2.5 million. Mr. Dowling said that, Jeremy Stone, DCR's land conservation analyst who is responsible for conducting these reviews, will share with you information regarding our 2007 reviews. Generally, DCR found that the program framework and the criteria that the Board put in place worked very well. However, like any new program, staff did identify areas within the criteria that required additional clarification and explanation. As such, staff developed two documents, one entitled "Virginia's Land Preservation Tax Credit Brochure" and another entitled "Land Preservation Tax Credit Questions and Answers" to help further explain the application process and criteria. Copies were provided in member packets and were also posted to a new land preservation tax credit page on DCR's website.

In addition to the clarifications made through the information products that DCR provided to the public through the course of last year, land trust partners suggested that additional flexibility in the criteria would be helpful and warranted consideration by the Board. The primary area of concern related to vegetated buffer requirements and in particular was often related to the requirement of excluding livestock from the buffer. Some of these issues surfaced during the 2008 legislative session during discussions of legislation that was introduced to modify the tax credit program. As noted by Mr. Maroon earlier, these bills were carried over and were discussed at the May retreat of the Natural Resources and Economic Development subcommittee of Senate Finance held at Lake Anna State Park. At that meeting, DCR, represented by Joe Maroon, as well as other stakeholders were given the opportunity to discuss their various concerns and positions. Upon deliberation of the subcommittee, it was recommended to the full Senate Finance Committee on June 19th, that the program was generally working well and that legislation did not appear to be necessary. It was left to the discretion of the Board to consider whether further refinement to the criteria would be beneficial.

The Department does recommend that refinement to the criteria would be beneficial. Mr. Dowling said that upon the conclusion of Mr. Stone's background remarks which are similar to those provided to the legislative committee by Joe Maroon, staff would discuss a slightly revised set of criteria that contains amendments that incorporate the clarifications that DCR identified

during the 2007 reviews. This would be the first step in refining the criteria. The version included in the Board package and contained a header entitled “DCR recommended amendments.” Mr. Dowling noted that this document had been modified from the version mailed to members and contained fewer revisions to be made at this time. Staff felt that the other revisions would benefit from further discussion and deliberation. It was staff’s intention to review each of the recommended criteria refinements with the Board, see if there is any public comment on these clarifying changes, and ask the Board to adopt those changes that it may be comfortable doing so today.

In terms of the 2nd step to refining the criteria, Mr. Dowling said it was staff’s intention to work with the Secretary’s Office to develop a stakeholder group to discuss additional refinements of the criteria and to develop a further updated draft criteria document beyond those amendments shared with the Board. Upon completion of a draft, the document would be posted to DCR’s website for public comment. It would be DCR’s intention to bring the modified criteria to the Board for consideration at the January 2009 meeting or to a Board subcommittee and then to the Board in January. In preparation for the stakeholder group meeting, staff would request interested parties to provide DCR with their comments by September 1, 2008. It should be noted, that DCR has already recently received memos from the New River Land Trust, the Virginia Outdoors Foundation, the owner of Walnut Grove Farm, and the Piedmont Environmental Council regarding suggested revisions. Those memos were included in member packets and are available from DCR.

Program overview for 2007

Mr. Stone gave the following presentation.

Land Preservation Tax Credit Review Criteria: Program overview for 2007

Key Points

- DCR’s verification review began January 1, 2007, as part of legislative changes
- Only review large donations (\$2.5M or more) that apply for \$1M or more in tax credits
- “Conservation Value” involves 3 components prescribed by VLCF criteria (Conservation Purpose, Public Benefit, Water Quality/Forest Stewardship)
- In 2007, DCR reviewed 18 of the 254 known donations filed. Represents 8% of applications but 25% of local credits claimed.
- 14 of the 18 required changes to clarify the conversation values. Only 1 was unresolved.
- Law allows 90 days for DCR review. Has taken average 22 days for pre-filing and 7 days for final verification.
- Dept. of Taxation retains responsibility for valuation and appraisal review and for issuing the tax credit.

2006 Legislative Reforms

- \$100 Million annual Cap (adjusted by the CPIU)
- Tax Credit reduced from 50% to 40% per donation
- Carry forward increased from 5 to 10 years plus the year of donation
- Credits available only upon approval by TAX; changed from taxpayer ‘registering’ credit
- Increased Taxation scrutiny over appraisals
- Established DCR Oversight Role
 - Annual Report on all LPTC transactions
 - Verification to TAX the Conservation Value of land donations where credit of \$1M or more is claimed (requires \$2.5M transaction)
- VA. Land Conservation Foundation to develop criteria to be used by DCR
- Tied in Water Quality Improvements and Forest Stewardship
- Legislative changes final on 8/28/06; effective 1/1/07

Annual Report 2007 Tax Credits – Preliminary Findings

- 254 tax credit applications filed for the \$100 million available in 2007.
- Amount of Acreage for which tax credits were applied is over 59,500 (out of over 78,200 total acres conserved statewide).
- 76% of acres protected in 2007 received tax credit.
- Properties in 61 localities claimed tax credits
 - Loudoun County 17%
 - Albemarle 11%
 - Fauquier 9%
 - Rockbridge 5%
- Average size property is 234 acres
- Forest Stewardship: 79% had Forest Stewardship Plans
- Water Quality: 66% had Agricultural BMPs
- Conservation Purpose applied for:
 - Scenic Preservation 79%
 - Agricultural Use 67%
 - Forrester Use 66%
 - Watershed Preservation 50%
 - Natural Habitat 37%
 - Land Designed by Local Government 26%
 - Historic Preservation 17%
 - Outdoor Recreation 3%

Process for Developing Verification Criteria

- Virginia Land Conservation Foundation includes appointees of Governor, Speaker, Senate, Secretary NR, Sec of Ag/Forestry
- VLCF Subcommittee & DCR staff developed draft Criteria

- All subcommittee meetings were public and received substantial input from VOF, TNC, PEC, Farm Bureau, tax credit brokers, land trusts, and interested individuals
- Held 4 public meetings (2 in Charlottesville, Richmond, Blacksburg)
- 30-day comment period
- Received 36 written comments
- Held additional stakeholders' meeting to share proposed changes; well received
- Made numerous changes based on the public input
- VLCF Board adopted at 11/21/06 meeting

VLCF Verification Criteria

- Verification of Conservation Value only applies to land donations claiming \$1M or more; not required for those claiming less
- VLCF Criteria involves 3 factors that taken together are considered Conservation Value of donated land:
 1. Conservation Purpose
 2. Public Benefit
 3. Water Quality and Forest Management
- Review Criteria are based on IRS Code § 170(h), and contain specific requirements that reflect state policy.
- State review is predictable, prompt, and based on specific criteria

VLCF Criteria

1. Conservation Purpose

Properties must meet at least 1

1. Agricultural Use
 2. Forestall Use
 3. Natural Habitat and Biological Diversity
 4. Historic Preservation
 5. Natural-Resource Based Outdoor Recreation or Education
 6. Watershed Preservation
 7. Preservation of Scenic Open Space
 8. Conservation and Open Space Lands Designated by Local Governments
- Multiple options for meeting each purpose.
 - Safe harbors available; if met, satisfies specific purpose.
 - Examples of Safe Harbors:
 - Agricultural Use: land that a locality has designated as being subject to use value taxation.
 - Historical Preservation: a battlefield individually listed in the Virginia Landmarks Register or the National Register of Historic Places.

- Examples of public recreation lands that will not meet the Criteria are those where development covers more than 15% of the site, amusement parks, or private beaches.

2. Public Benefit

DCR's review ensures that safeguards exist in deed to:

- Protect conservation values of the land in perpetuity.
- Prohibit intentional destruction or significant alteration of the conservation values of the protected property.
- Assure that conservation value of the property will not be adversely affected by future division or development of the property.

The deed of easement must contain the following restrictions:

- Limits on no. of permitted subdivisions of property;
- Limits on permitted new buildings & structures;
- Restrictions on location of new buildings & structures;
- Restrictions on location of new roads or access ways;
- Limits on alterations, demolition, or ground-disturbing activity that may impact cultural/historic resources and natural heritage resources.

3. Water Quality and Forest Stewardship

To Protect Water Quality

- If property contains wetlands, frontage on perennial stream or river, lakes, or tidal water, then deed must provide for a 35-foot riparian buffer.
 - Exception: NOT required for historic lawns, intermittent streams, ornamental ponds
 - Allow: limited stream crossings, stream access points, limited mowing
- If the property contains lands in agricultural use, then deed shall require implementation of a written conservation plan that stipulates the use of best management practices. (Similar requirement to receive state or federal Cost Share assistance.)

Forest Stewardship

- Applies if property contains 20 acres or more of forest lands.
- Deed must require written forest management plan or Virginia Forest Stewardship Plan in place prior to the commencement of timber harvesting or other significant forest management activities.
- Plan to be developed by or in consultation with Dept. of Forestry or be consistent with Forest BMPs.

DCR Review

- Potential applicants are strongly encouraged to request an optional pre-filing review.
- Offers opportunity to correct deficiencies before deed is recorded.
- Components of DCR review
 - Conduct site visit
 - Research state & federal databases/maps to ensure deed protects previously documented resources
 - Review deed to ensure Criteria restrictions are included
 - Discuss any issues with applicant or representative
 - Send pre-filing comment letter or final verification letter

2007 DCR Review Results

- Background: Reached \$ 100M cap; VOF had second best year ever (over 64,000 Acres)
- DCR reviewed less than 8% of all applications (18 out of 254)
 - Represents \$25M in state tax credits on nearly 7,000 acres.
 - More than the expected number of high dollar donations over \$2.5M than anticipated; suggests that DCR Review has not slowed interest.
- DCR conducted preliminary and final reviews and issued consistency letters to 17 of the 18 applications.
- 14 of the 18 applicants are known to have recorded their deed or easement in 2007. (The others have indicated problems with adequate appraisals, bank lender concerns or unresolved questions.)
- DCR's average review time for a pre-filing review was 20 business days and final review time was about 7 days. (State law allows 90 days)
- Changes to deeds included:
 - Requiring a forest management plan.
 - Requiring water quality buffers.
 - Protecting resources previously listed as National or State Historic Landmarks from demolition and alteration.
 - Requiring protection of sensitive resources (such as a bald eagle's nest) documented in state databases.
- Examples of the added value of DCR's Review:
 - As originally submitted to DCR, one application would have allowed almost unlimited development of the property with buildings under the terms of the proposed easement.
 - Another application included a deed that did not mention the existence of a bald eagle's nest on the property.

Benefits of the DCR Review

- Ensures consistency in the conservation value of the land transactions claiming over \$1 M in state tax credit.

- Provides a check and balance on the quality of the largest easements and land donations.
- Enhances the value of Virginia tax dollars by adding water quality and forest stewardship protections.
- Expectation is for \$1 M or more, landowner will conserve their land and provide water quality buffers or use BMPs to reduce stream erosion and runoff, and properly manage forests.

Future Efforts and Issues

- Working with VOF to ensure that DCR review begins earlier in process in order to avoid issues later.
- Holding joint VOF-DCR educational forums for lawyers and others who advise landowners.
- Developed new educational materials and a question and answer fact sheet that helps to explain some of the recurring questions that have been raised.
- Revised land conservation website to provide additional information available to the public on tax credits.
- Improve awareness of Criteria interpretations.
- Willing to consider future modifications in VLCF criteria as warranted.

Proposed changes to criteria for Board consideration

Mr. Dowling reviewed the document with proposed changes for Board consideration. A copy of this version is available from DCR.

Mr. Dowling said that the changes in the document clarified existing practice and interpretation with regard to how DCR has been administering the program.

Through Board discussion, several additional changes to the proposed draft were made.

Secretary Bryant noted that these were administrative changes and said that the changes were consistent with current DCR practice. He said more substantial changes would be dealt with at a later time.

Mr. Maroon said that if the changes were not adopted, DCR would still operate in the same manner.

MOTION: Mr. Graham moved that the Virginia Land Conservation Foundation Board of Trustees approve the recommended changes in the Land Preservation Tax Credit Review Criteria as presented by staff.

SECOND: Ms. Morgan

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DISCUSSION: Secretary Bryant called for public comment on the proposed changes.

Elizabeth Tune of the Department of Historic Resources suggested that “mowed lawns or pastures” be removed from line 430 as the inclusion omitted battlefields.

Mr. Weed said that there was a need to have more conversation on how that change would apply.

Mr. Hartz from the Virginia Outdoors Foundation asked if other changes would be considered.

Secretary Bryant said that the administrative changes would be adopted at this meeting but that there might be concerns that require additional discussion and future action.

Mr. Ennis suggested there needed to be consideration of the hydrology differences between regions and that consideration should be given to buffer width.

Mr. Dowling said that would be considered with the stake holders.

VOTE: Motion carried unanimously with the additional amendments made during the Board deliberations..

Partner Agency Updates

Virginia Outdoors Foundation

Mr. Lee said that it took the Virginia Outdoors Foundation 38 years to reach a threshold goal of 250,000 acres. That was reached in 2004 and the VOF will double that number in 2008. He said that was because the Commonwealth has given landowners incentives to protect land.

Mr. Lee said that the VOF had recently completed three noteworthy easements working in partnerships with other organizations. VOF worked with DGIF regarding land in the City of Fredericksburg that would protect the land but allow public access to the river. No tax credits were involved, just responsible stewardship. He said that another easement was Carvin’s Cove on a property owned by the City of Roanoke. He said that was significant because the area provides several jurisdictions with drinking water. The third was a partnership with the Western Virginia Land Trust for about 6,000 acres.

Department of Agriculture and Consumer Services

Kevin Schmidt from the VDACS Office of Farmland Preservation said that there were 21 localities that have a Purchase of Development Rights program; 17 of which have some level of funding. VDACS has closed on the first easement in Albemarle County and is working with owners in Fauquier and Rappahannock Counties.

Department of Forestry

Rob Farrell of the Virginia Department of Forestry said that the acquisition of the Channels State Forest property on Brumley Mountain had been completed.

Mr. Farrell said that DOF is in the process of the current Forest Legacy grant round. He said that DOF is hoping to acquire additional significant properties through bond funding.

Department of Game and Inland Fisheries

Mr. Adams from DGIF gave the following update.

Merrimac Farm

- Acquired in January 2008, Merrimac Farm, 302 acres, was purchased for \$2,859,500 using funds from a variety of sources. The Prince William Conservation Alliance secured a Virginia Land Conservation Foundation grant in the amount of \$820,773 used by the VDGIF to purchase the property. The VDGIF provided \$608,997 from its capital funds toward the purchase. The U.S. Department of the Navy contributed \$1,429,750 to VDGIF under the federal encroachment protection program. The land features diverse wildlife habitats – wetlands, hardwood forest and upland meadows – as well as access to Cedar Run. The site boasts one of the largest single patches of Virginia bluebells in northern Virginia.
- Acquired for \$126,000 in February 2008, DGIF added 20.238 acres (Bath County) to the Coursey Springs Hatchery. This addition will act as a conservation buffer to the proposed adjacent development of land.
- Acquired for \$170,000 in June 2008, General Vaughn's Bridge, 168.954 acres, Southampton County. This land consists of a boating access facility that has been managed by DGIF for over 20 years and is on the Nottoway River at US 258. The habitat is primarily bottomland forest and tidal marshland.

Conservation Easements

Old Ice House Corporation, Inc., granted 369.5 acres in King and Queen County, to DGIF in December 2007.

Other Projects

- Bullpasture River, Highland County, ~178 acres; partners – TNC (made possible through a grant from VLCF - \$536,200).
- Conservation Easement, Franklin County, 4993.27 acres, partners – American Electric Power and Virginia Outdoor Foundation.
- Boating Access Facility on the Rappahannock River, 4.333 acres by gift, King George County
- Rockbridge/Botetourt County, ~4700 acres
- Sussex County, ~1800 acres; - partner TNC

Department of Historic Resources

Ms. Tune said that DHR had joined with VOF to take the easement of Carter's Grove in James City County. She said that this had been a high profile property for sale by the Colonial Williamsburg Foundation. It will be protected as a national historic landmark.

DHR is working to place an easement on the Carlyle House in Alexandria through the Save America's Treasure program.

DCR recently held a press conference at Cooley Farm where the Foundation has worked on over 189,000 acres of core battlefield easements.

Public Comment

Mr. Hartz from the VOF said that a letter from the Virginia Outdoors Foundation that included suggested changes to the Land Preservation Tax Credit criteria was included in member packets.

Henry Day, an attorney from Warrenton, said that in working with easements he had encountered difficulties with riparian buffers. He said that based on the topography, a 35 ft. buffer is not always appropriate.

Mr. Phemister from the Nature Conservancy said that the discussion process outlined for the land preservation tax credit criteria was quite appropriate. He said that the Nature Conservancy believes one of the biggest issues is the buffer requirements. He said that TNC is hoping for additional flexibility. He said that it was important to recognize the effectiveness and fairness of the criteria. He said there was a need to evaluate how the program was working statewide.

Next Meeting

The next meeting of the Virginia Land Conservation Foundation will be January 7, 2009. The location will be determined at a later date.

Adjourn

There was no further business and the meeting was adjourned.

Respectfully Submitted,

L. Preston Bryant, Jr.
Chairman

Joseph H. Maroon
Executive Secretary